

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DAVID DERRINGER,

Plaintiff,

vs.

Civ. No. 03-149 MV/RLP

THOMAS FITCH,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court *sua sponte*. Plaintiff David Derringer has filed a notice of bankruptcy. See Plaintiff's Notice of Filing of Bankruptcy, filed October 26, 2004, [Doc. No. 18]. Upon the filing of a bankruptcy petition, the automatic stay provision provided in 11 U.S.C. § 362 prohibits "any act to collect, assess, or recover a claim against the debtor." The automatic stay remains in effect until the bankruptcy case is closed, dismissed, or discharge is granted or denied, or until the bankruptcy court grants some relief from the stay. 11 U.S.C. § 362(a), (c)(2), (d), (e), (f). Until one of these events has taken place, the Court cannot rule on Defendant Thomas Fitch's pending motion for attorney's fees.

For administrative reasons, the Court would prefer not to have the motion remain on its docket pending resolution of Plaintiff's bankruptcy. Therefore, unless objection is received from the parties within ten days of the date of this Order, the Court will deny Defendant Judge Fitch's Motion for Award of Attorneys' Fees, filed April 12, 2004, [Doc. No. 14], without prejudice and grant Defendant leave to renew his motion within thirty days of the lifting of the automatic stay in

this matter.

IT IS THEREFORE ORDERED that the parties provide any objections to the Court proceeding as outlined above within ten days of the date of this Order.

Dated this 7th day of December, 2004.



MARTHA VAZQUEZ
U. S. DISTRICT COURT JUDGE

Attorney for Plaintiff:

David Derringer, *pro se*

Attorneys for Defendant:

Sean Olivas, Esq.

Melanie Frassanito, Esq.